

## REMARKS

In the Office Action mailed on July 24, 2006, the Examiner has objected to the specification due to informalities. In compliance with the Examiner's suggestion, Applicants have amended the specification to include a priority claim as the first paragraph of the application.

In the same Office Action, the Examiner has also rejected Claims 1-6 and 8 under judicially created doctrine obviousness-type double patenting as being unpatentable over Claims 1-3, 5 and 8 of U.S. Patent No. 6,974,795 ('795). Since the '795 patent is commonly owned with this application, a terminal disclaimer is attached to this amendment to overcome this nonstatutory double patenting rejection.

The Examiner has also rejected Claims 1-5 and 7-8 under 35 U.S.C § 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants amended Claim 1 to specifically point out that the surface-modified hemoglobin is polyethylene glycol surface modified hemoglobin that has an oxygen affinity less than that of strama-free hemoglobin.

Supporting language can be found on paragraph 0047, which recites that "the oxygen-carrying component is modified hemoglobin. A preferred modification to hemoglobin is "surface-modification", i.e. covalent attachment of chemical groups to the exposed amino acid side chains on the hemoglobin molecule. Most commonly, the chemical group attached to the hemoglobin is polyethylene glycol," and on paragraph 0044, which recites that "HBOC with oxygen affinity less than that of SFH is desired," wherein HBOC stands for hemoglobin-based oxygen carriers and SFH stands for strama-free hemoglobin.

Applicants believe that the subject matter claimed in amended claim 1 and its claims 2-4 and 7 which depend thereon are now adequately described and fully supported by the original disclosure as filed. In view of this amendment, Claims 5, 6 and 8 are cancelled without prejudice.

Appl. No. 10/501,171  
Amdt. dated December 22, 2006  
Reply to Office Action of September 22, 2006

### SUMMARY

It is believed that the foregoing amendment and argument deals with all grounds of objection and rejection, and that the claims remaining in this application are in order for allowance.

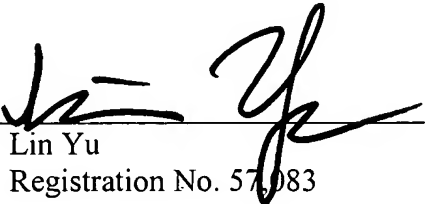
Should the Examiner believe that prosecution of this application might be expedited by further discussion of any remaining issue, the Examiner is cordially invited to contact the undersigned representative for the Applicants by phone at (619) 230-7457 or by email at [lyu@gordonrees.com](mailto:lyu@gordonrees.com).

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1990 and please credit any excess fees to such deposit account.

Respectfully submitted,

Dated: December 22, 2006

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